

ROKOSCH

GRANDSTAFF

THOMPSON

CHILCOTT

DRISCOLL

PLETTENBERG (Clerk & Recorder)

Date.....September 14, 2007

Members Present.....Commissioner Jim Rokosch,  
Commissioner Carlotta Grandstaff, Commissioner Alan Thompson, Commissioner Greg  
Chilcott and Commissioner Kathleen Driscoll

Minutes: Glenda Wiles

The Board met for a public meeting for Mountain View Orchards Lot 22A Block 5 AP.  
Present were Planners Randy Fifrick, Tristan Riddell, and Planning Director Karen  
Hughes.

Commissioner Rokosch opened the public meeting. He requested the disclosure of any  
conflicts of interest, hearing none. Commissioner Rokosch requested the reading of the  
Planning Staff Report. Randy presented the Planning Staff Report as follows:

**MOUNTAIN VIEW ORCHARDS BLOCK 5, LOT 22A, AP (POWELL)  
TWO-LOT FIRST MINOR SUBDIVISION**

**STAFF REPORT FOR BOARD OF COUNTY COMMISSIONERS**

**CASE PLANNER:** Randy Fifrick

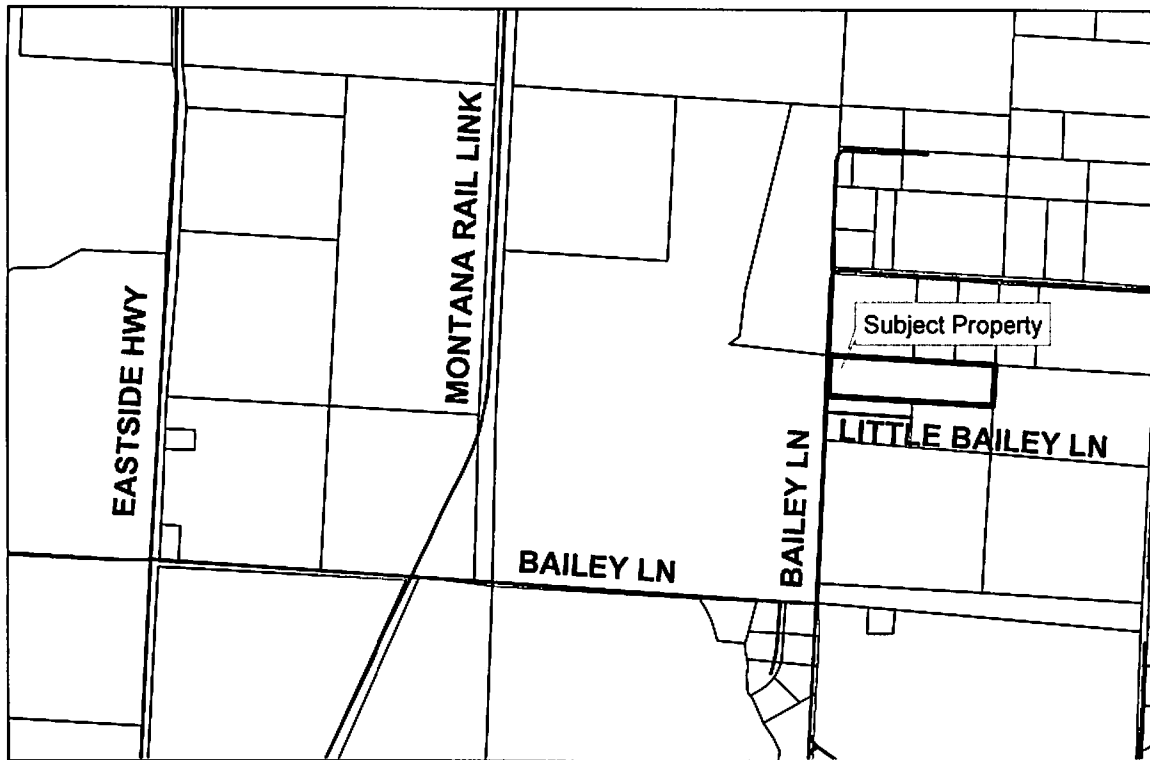
**REVIEWED/  
APPROVED BY:** Renee Van Hoven

**PUBLIC HEARINGS/  
MEETINGS:** BCC Public Meeting: 10:30 a.m. Sept 14, 2007  
Deadline for BCC action (35-working days): Sept 18, 2007

**SUBDIVIDER/OWNER:** Marlin Powell  
PO Box 123  
Corvallis, MT 59828

**REPRESENTATIVE:** Shepherd Surveying  
Leonard Shepherd  
320 Adirondac  
Hamilton, MT 59840

**LOCATION OF REQUEST:** The property is located northeast of Corvallis  
off Bailey Lane. (See Map 1)



**Map 1: Location Map**  
(Source Data: Ravalli County GIS Department)

**LEGAL DESCRIPTION  
OF PROPERTY:**

Lot 22A of AP# 717 located in the SE ¼ of Section  
10, T7N, R20W, P.M.M., Ravalli County, Montana.

**APPLICATION  
INFORMATION:**

The subdivision application was originally determined  
sufficient on May 31, 2007. Based on Planning Staff's  
recommendation, the applicant decided to improve  
the existing Little Bailey Lane instead of constructing  
a new road (and adding another access to Bailey  
Lane) to access the proposed lots. On June 27, 2007,  
Marlin Powell requested that the public review period  
be suspended until the Road and Bridge Department

could complete review of road plans for improvements to Little Bailey Lane. The Planning Department received Road Department approval of the revised road plans on August 24, 2007. Agencies were notified of the subdivision and comments received by the Planning Department not included in the application packet are Exhibits A-1 and A-2 of the staff report.

**LEGAL NOTIFICATION:** Notice of the project was posted on the property and adjacent property owners were notified by regular mail postmarked June 11, 2007 and September 5, 2007.

**DEVELOPMENT  
PATTERN:**

Subject property	Agriculture
North	Agriculture
South	Vacant Residential
East	Agriculture
West	Agriculture

**APPLICABLE SUBDIVISION REGULATIONS:** As amended May 24, 2007

**INTRODUCTION**

The Mountain View Orchards Block 5, Lot 22A, AP first minor subdivision is a two-lot subdivision of 11 acres located northeast of Corvallis. The original subdivision application requested a variance from Section 5-4-4(d) of the RCSR, to allow the subdivider relief from connecting to a right-of-way in an adjacent platted area (Little Bailey Lane). The Planning Department recommended denial of the variance. Without a variance from Section 5-4-4(d), the proposal did not meet the Subdivision Regulations. Therefore, the Planning Department recommended denial of the subdivision. Due to the Planning Department's recommendation of denial, the applicant decided to withdraw the variance application and redesign the subdivision. The applicant is now proposing to access the subdivision off of an existing private road, Little Bailey Lane. Little Bailey Lane will be improved to meet County Standards. Property lines from the original proposal have also been altered to allow access from Little Bailey Lane to Lot 22-A2.

During the redesign of the subdivision, the applicant requested an extension of the public review period until the road plans for Little Bailey Lane could be approved by the Ravalli County Road and Bridge Department. The approved road plans were received by the Planning Department on August 24, 2007. The extended deadline for a BCC decision is now September 18, 2007.

RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS  
SEPTEMBER 14, 2007

MOUNTAIN VIEW ORCHARDS BLOCK 5, LOT 22A, AP  
TWO-LOT MINOR SUBDIVISION

**RECOMMENDED MOTION**

That the Mountain View Orchards Block 5, Lot 22A, AP Minor Subdivision be **approved**, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report.

**RECOMMENDED MITIGATING CONDITIONS OF APPROVAL FOR THE SUBDIVISION**

1. A document entitled "Notifications to Future Property Owners" that includes the following notifications and the attachments listed below shall be included in the submittal of the final plat to the Planning Department and filed with the final plat:

***Notification of Proximity to Agricultural Operations.*** This subdivision is located near existing agricultural activities. Some may find activities associated with normal agricultural activities objectionable and dangerous. *(Effects on Agriculture)*

***Limitation of Access onto Public Roads.*** A "non-ingress/egress" restriction exists along the Bailey Lane frontage of this subdivision, excepting the approved approach for the internal subdivision road. All lots within this subdivision must use this approved approach. This limitation of access may be lifted or amended only with the approval of the Board of County Commissioners. *(Effects on Local Services and Public Health and Safety)*

***Notification of Road Maintenance Agreement.*** The internal subdivision road is not maintained by Ravalli County, the State of Montana, or any other governmental entity. Neither the County nor the State assumes any liability for lacking or improper maintenance. A Road Maintenance Agreement for this road was filed with this subdivision and outlines which parties are responsible for maintenance and under what conditions. *(Effects on Local Services)*

***Notification of Irrigation Facilities and Easements.*** Within this subdivision there are irrigation easements, as shown on the final plat. All downstream water-right holders have the right to maintain and repair their irrigation facilities whenever necessary to keep them in good condition. The filed subdivision plat shows the irrigation easements on the property. The placement of structures or the planting of vegetation other than grass within the ditch easement is prohibited. The Mountain View Water Users Association must approve any relocation or alteration (e.g. installation of a culvert) of irrigation ditches/pipelines. Any act that damages or destroys a ditch, interferes with its operation or maintenance in any way, or restricts access to the ditch

so as to interfere with its maintenance is expressly prohibited. The downstream water right holders and those acting with the approval of the Mountain View Water Users Association have the right to use the easements to maintain the ditches. Please contact the Mountain View Water Users Association, 477 Bailey Lane, Corvallis, Montana, 59840, 961-4343 for more information. (*Prerequisites to Approval and Effects on Agricultural Water User Facilities*)

2. Protective covenants for this subdivision shall be submitted with the final plat that include the following provisions:

***Waiver of Protest to Creation of RSID/SID.*** Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to, a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision, including related right-of-way, drainage structures, and traffic control signs. (*Effects on Local Services*)

***Living with Wildlife.*** (See Exhibit A-1 for required provisions.) (*Effects on Agriculture and Wildlife & Wildlife Habitat*)

***Lighting for New Construction.*** To promote public health and safety, reduce energy consumption, and reduce impacts to nocturnal wildlife, full cut-off lighting is recommended for any new construction within this subdivision. A full cut-off fixture means a fixture, as installed, that is designed or shielded in such a manner that all light rays emitted by the fixture, either directly from the lamps or indirectly from the fixture, are projected below a horizontal plane through the lowest point on the fixture where light is emitted. The source of light should be fully shielded on the top and sides, so as not to emit light upwards or sideways, but only allowing light to shine down towards the subject that is to be lighted. For more information, visit [www.darksky.org](http://www.darksky.org). (*Effects on Natural Environment, Wildlife and Wildlife Habitat, and Public Health & Safety*)

***Radon Exposure.*** The owner understands and accepts the potential health risk from radon concentrations, which are presently undetermined at this location. Unacceptable levels of radon can be reduced through building design and abatement techniques incorporated into structures. Property owners are encouraged to have their homes tested for radon. Contact the Ravalli County Environmental Health Department for further information. (*Effects on Public Health & Safety*)

***Control of Noxious Weeds.*** A weed control plan has been filed in conjunction with this subdivision. Lot owners shall control the growth of noxious weeds on their respective lot(s). Contact the Ravalli County Weed

District for further information. *(Effects on Agriculture and Natural Environment)*

**Required Posting of County-Issued Addresses for Lots within this Subdivision.** The Corvallis Rural Fire District has adopted the Uniform Fire Code which requires lot owners to post County-issued addresses at the intersection of the driveway leading to each residence and the road providing access to the lot as soon as construction on the residence begins. *(Effects on Local Services and Public Health & Safety)*

**Access Requirements for Lots within this Subdivision.** The Corvallis Rural Fire District has adopted the Uniform Fire Code. All accesses, including driveways to residences over 150' in length, must have a minimum unobstructed travel surface width of 20', a vertical clearance of 13'6" and an all-weather surface that can accommodate the weight of a fire truck. Please contact the Corvallis Rural Fire District for further information. *(Effects on Local Services and Public Health & Safety)*

**Amendment.** Written governing body approval shall be required for amendments to provisions of the covenants that were required to be included as a condition of subdivision approval. *(Effects on all six criteria)*

3. The subdividers shall include an RSID/SID waiver in a notarized document filed with the subdivision plat that states the following: Owners and their successors-in-interest waive all rights in perpetuity to protest the creation of a city/rural improvement district for any purpose allowed by law, including, but not limited to a community water system, a community wastewater treatment system, and improving and/or maintaining the roads that access the subdivision including related right-of-way, drainage structures, and traffic control signs. *(Effects on Local Services)*
4. The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. *(Effects on Local Services and Public Health & Safety)*
5. Prior to final plat approval, the subdividers shall provide a letter from the Corvallis Rural Fire District stating that the subdividers have provided the required 1,000 gallon-per-minute water supply or 2,500 gallon-per-lot water storage for fire protection for each lot within this subdivision. Alternatively, the subdividers may provide evidence that a \$500-per-lot contribution has been made to the Corvallis Rural Fire District with the final plat submittal in lieu of the required water supply or water storage for fire protection. *(Effects on Local Services and Public Health & Safety)*

6. The subdivider shall submit a letter or receipt from the Corvallis School District stating that they have received an (amount)-per-lot contribution prior to final plat approval. *(Effects on Local Services)*
7. The subdivider shall submit an (amount)-per-lot contribution to the Ravalli County Treasurer's Office to be deposited into account for the Sheriff's Office prior to final plat approval. *(Effects on Local Services and Public Health & Safety)*
8. The final plat shall show a non-ingress/egress zone along the Bailey Lane frontage of the subdivision, excepting the existing access for Little Bailey Lane. *(Effects on Local Services and Public Health and Safety)*
9. The subdivider shall provide for an additional 5 (five) feet of public road and utility easement along the Bailey Lane frontage of the subdivision on the final plat. *(Effects on Local Services)*
10. Little Bailey Lane shall be labeled as a "public road and utility easement" on the final plat. *(Effects on Local Services)*
11. The Road Maintenance Agreement filed with the final plat shall allow for other properties that have beneficial use of the internal subdivision road to be included as parties to this agreement without the consent of the property owners within the Mountain View Orchards Block 5, Lot 22A, AP. *(Effects on Local Services)*

### **SUBDIVISION REPORT**

#### **COMPLIANCE WITH PREREQUISITES TO APPROVAL**

Section 3-2-8(a) of the RCSR states that the BCC shall not approve or conditionally approve a subdivision application and preliminary plat unless it is established by credible evidence that the proposed subdivision meets the following requirements:

#### **A. Provides easements for the location and installation of any planned utilities.**

##### **Findings of Fact**

1. The preliminary plat indicates that existing utility easements are located along Little Bailey Lane.
2. According to the application, the proposed subdivision will be served by Ravalli Electric Cooperative and Qwest Communications. Utility companies have been notified of the proposed subdivision. Qwest indicated that they will provide services to these lots.
3. Utility certificates are a requirement of final plat approval.

4. Section 3-4-4(a)(ii) of the RCSR requires that the existing and proposed utility easements are shown on the final plat.

Conclusion of Law

The proposed subdivision application provides for utility easements.

- B. Provides legal and physical access to each parcel within the subdivision and the notation of that access is included on the applicable plat and in any instrument transferring the parcel.**

Findings of Fact

1. The subject property is accessed by Bailey Lane and Little Bailey Lane.
2. Bailey Lane is listed as a County-maintained road in Exhibit A of the RCSR.
3. Little Bailey Lane is shown as a privately-maintained public road with a public utility easement on AP# 565491 in the Ravalli County Clerk and Recorder's Office.

Conclusions of Law

1. Legal and physical access is provided on Bailey Lane and Little Bailey Lane.
2. With the final plat requirements, Little Bailey Lane will be shown as a privately-maintained public road with a public utility easement.

- C. Assures that all required public or private improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by Section [3-4-2] of these regulations.**

Findings of Fact

1. Little Bailey Lane will be hard-surfaced and improved to meet county standards.
2. Section 3-4-4(a)(xxvi) requires that the applicant submit evidence that improvements have been made in accordance with the conditions of approval and requirements of final plat approval and certified by the subdivider prior to final plat approval.

Conclusion of Law

The final plat requirements or an improvements agreement and guaranty will ensure that all improvements are installed.

- D. Assures that the requirements of 76-3-504(1)(j), MCA, regarding the disclosure and disposition of water rights as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

Findings of Fact



1. The property has water rights through the Bitterroot Irrigation District (BRID).
2. The property's water is distributed by the Mountain View Water Users Association.
3. At the May 16, 2006 BRID meeting, BRID approved of the proposal to allocate 4.9 irrigated acres water to each of Lot 22-A1 and Lot 22-A2.
4. On June 1, 2006, the Mountain View Water Users Association approved the irrigation system for Marlin Powell on Little Bailey Lane.

#### Conclusion of Law

With the approval from BRID and Mountain View Water Users Association, this requirement has been met.

- E. Assures that the requirements of 76-3-504(1)(k) MCA, regarding watercourse and irrigation easements as set forth in Chapter 5 have been considered and will be accomplished before the final plat is submitted.**

#### Findings of Fact

1. According to the application and the preliminary plat, there is a proposed 20-foot wide irrigation easement centered on an existing irrigation ditch that traverses the western edge of Lot 22-A2.
2. Section 3-4-4(a)(ii)(V) requires that the irrigation easement be shown on the final plat.
3. The placement of structures or the planting of vegetation other than grass within the ditch easement is prohibited in 76-3-504(1)(k) MCA, without the written permission of the ditch owner (Mountain View Water Users Association). To meet this requirement, the applicant shall place a notification in the Notifications Document that permission from the Mountain View Water Users Association is required for any alterations within the irrigation easement. (*Condition 1*)

#### Conclusion of Law

With the requirements of final plat approval and a condition requiring a notification that permission from the Mountain View Water Users Association is required for any alterations within the easement, this requirement will be met.

- F. Provides for the appropriate park dedication or cash-in-lieu, if applicable.**

#### Finding of Fact

Section 6-1-5(b)(1) states that minor subdivisions in which only one additional parcel is created are exempt from parkland dedication requirements.

#### Conclusions of Law

Park dedication is not applicable.

### **COMPLIANCE WITH APPLICABLE REGULATIONS**

Section 3-2-8(b) of the RCSR states that in approving, conditionally approving, or denying a subdivision application and preliminary plat, the BCC shall ensure the subdivision application meets Section 3-2-8(a) above, and whether the proposed subdivision complies with:

**A. These regulations, including, but not limited to, the standards set forth in Chapter 5.**

**Finding of Fact:**

The Ravalli County Planning Department has reviewed this proposal in compliance with the procedures provided in Chapter 3 of the Ravalli County Subdivision Regulations. With the conditions and requirements of final plat approval for the subdivision, the application will meet the design standards in Chapter 5. No variances are requested.

**Conclusion of Law:**

With the conditions and requirements of final plat approval for the subdivision, the preliminary plat application meets all applicable standards required in the RCSR.

**B. Applicable zoning regulations.**

**Findings of Fact**

1. The subject property is under the jurisdiction of the interim zoning regulation limiting subdivisions to a density of one dwelling per two acres (recorded as Resolution 2038), which has been determined to be a minimum lot size restriction. The density of this subdivision is about one dwelling unit per 5.50 acres, with a minimum lot size of 5.45 acres.
2. The property is not within one of the voluntary zoning districts in Ravalli County.

**Conclusion of Law**

This proposal complies with existing zoning regulations.

**C. Existing covenants and/or deed restrictions.**

**Finding of Fact**

1. There are existing protective covenants recorded as Document # 485436 with the Ravalli County Clerk and Recorder's Office on this property (included in application).
2. The protective covenants require all tracts to be used for residential purposes only.
3. The protective covenants require that no tract be divided more than once and each subdivided tract contain at least five (5) acres.
4. The protective covenants require each tract to have its own private well and sewage system.

#### Conclusion of Law

The subdivision proposal appears to be in compliance with the protective covenants recorded for the property.

#### **D. Other applicable regulations.**

##### Findings of Fact

1. Following are regulations that may apply to this subdivision:
  - Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA
  - Montana Sanitation in Subdivisions Act, Title 76, Chapter 4, MCA
  - Ravalli County Subsurface Wastewater Treatment and Disposal Regulations
  - Montana Standards for Subdivision Storm Drainage (DEQ Circular 8)
  - Applicable laws and policies requiring permits related to development (U.S. Army Corps of Engineers, Bitterroot Conservation District, Ravalli County Road & Bridge Department, Montana Department of Transportation, Montana Department of Environmental Quality, etc.)
2. The applicants were made aware of the applicable regulations at the updated pre-application conference held on February 6, 2007.

#### Conclusion of Law

The application appears to meet all of the applicable regulations.

#### **E. The MSPA, including but not limited to an evaluation of the impacts of the subdivision on the following criteria:**

##### **CRITERION 1: EFFECTS ON AGRICULTURE**

##### Findings of Fact:

1. The property is located in an area of residential and agricultural uses.
  - *To mitigate impacts on agriculture, a notification of proximity to agricultural operations shall be included in the notifications document filed with the final plat. The protective covenants, also filed with the final plat, shall include a provision requiring homeowners to keep pets confined to the house, a fenced yard, or in an outdoor kennel. (Conditions 1 and 2)*
2. None of the property has soils listed as Prime Farmland or Farmland of Statewide Importance. About 40% of the property is listed as Farmland of Local Importance by the U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS). In a conversation with Jay Skovlin, local NRCS soil scientist, Mr. Skovlin stated that the Farmland of Local Importance classification was not intended to be used to determine important agricultural land. It is the lowest tier of farmland soils and the criteria have a low threshold so this classification does not show the most productive soils in the Valley. The classification will be used as a preliminary screening tool for the Farm

and Ranch Land Protection Program. Mr. Skovlin will be writing the County a letter to summarize this information.

3. The applicants submitted a Ravalli County Subdivision Noxious Weed Evaluation Form that stated common tansy, hounds tongue, spotted knapweed, and hoary allysum are located on the property. The evaluation form has been approved by the Weed Board and Section 3-4-5(b)(VI) requires that a plan is filed with the final plat. According to MCA 7-22-2152, any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, a plan shall be submitted to the weed board for approval by the board. The subdivider has proposed a provision in the covenants that the owners of each lot control noxious weeds.
  - *To mitigate impacts on agriculture, a noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

#### Conclusions of Law:

1. The creation of these lots will diminish potential agricultural uses on this property, but will not take Prime Farmland or Farmland of Statewide Importance out of production.
2. With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on surrounding agriculture will be reduced.

#### CRITERION 2: EFFECTS ON AGRICULTURAL WATER USER FACILITIES

##### Findings of Fact

1. The application states that 9.8 irrigated acres of water are provided to the property by the Bitterroot Irrigation District (BRID). An existing irrigation pipeline/ditch located along the western boundary of Lot 22-A2, as shown on the preliminary plat, will provide each lot with water. Lots 22-A1 and 22-A2 will be allotted 4.9 irrigated acres each. A letter from BRID, dated May 19, 2006, states their approval of the re-allocation of water rights and irrigation plan. A letter from the Mountain View Water Distribution Company dated June 1, 2006, states that the applicant met all the requirements for the irrigation system for Lot 22-A2. *(Application)*

*To notify future property owners of the irrigation rights associated with this property and the role of the Irrigation District and to mitigate potential impacts on agricultural water user facilities, a notification of the irrigation facilities and easements shall be filed with the final plat. (Condition 1)*

2. The subdivider is proposing a 20-foot wide irrigation easement along the existing pipeline traversing the western boundary of Lot 22-A2.

*Section 3-4-4(a)(ii)(V) requires that the proposed 20-foot wide irrigation easement is shown on the final plat.*

**Conclusion of Law:**

With the mitigating conditions of approval and requirements of final plat approval, impacts on agricultural water user facilities will be reduced.

**CRITERION 3: EFFECTS ON LOCAL SERVICES**

**Findings of Fact:**

1. The subdivision is located within the Corvallis Rural Fire District. The Corvallis Rural Fire District provided comments on the previous variance request that has been removed from the current proposal, but not specifically on the subdivision proposal. The Corvallis Rural Fire District has provided comments on previous subdivision proposals indicating they have adopted a policy which addresses access, posting of addresses, and water supply requirements. The subdivider shall meet the water supply requirements for the Corvallis Rural Fire District, which is a 1,000 gallon per minute water supply or a 2,500 gallon per lot water storage. Alternatively, the subdivider can contribute \$500 per lot and provide a letter from the Corvallis Rural Fire District that the contribution has been made prior to final plat approval. Conditions of approval will meet the recommendations of the Corvallis Rural Fire District.

*The following conditions will mitigate impacts of the subdivision on the Fire District:*

- *Provisions in the covenants requiring that addresses are posted as soon as construction begins and that all driveways over 150 feet meet the standards of the Fire District. (Condition 2)*
  - *The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Condition 4)*
  - *Provide adequate water supply or a \$500 per lot contribution to the Corvallis Rural Fire District, as approved by the Fire District. (Condition 5)*
2. With this subdivision, it is estimated that approximately .5 school-aged children will be added to the Corvallis School District, assuming an average of .5 children per single family residence (Source: Census 2000).
  3. The Corvallis School District was notified of the subdivision proposal. In a letter dated June 20, 2007 (*Exhibit A-2*), the School District stated that it has no specific objection to the subdivision, but noted that an increase in students continues to affect their infrastructure. The subdivider is proposing to contribute a voluntary donation of \$250-per-lot to the school district.

*To mitigate impacts on the School District, the applicant shall submit a letter or receipt from the Corvallis School District stating that they have received a (amount)-per-lot contribution prior to final plat approval. (Condition 6)*

4. The Ravalli County Sheriff's Office provides law enforcement services to this area. No comments have been received by the Sheriff's Office. The current level of service is not known, but it is generally understood that the Sheriff's Office is operating at an inadequate level of service. This proposed subdivision is located 11.7 miles from the Sheriff dispatch. The applicant is not proposing any mitigation.

*To mitigate impacts on the law enforcement, the subdivider shall submit a (amount)-per-lot contribution to the Ravalli County Treasurer's Office to be deposited into account for the Sheriff's Office prior to final plat approval. (Condition 7)*

5. Ambulance services will be provided by Marcus Daly Memorial Hospital EMS Department. The emergency service provider was contacted but no comments have been received.
6. According to the application, the proposed subdivision will be served by Ravalli Electric Cooperative and Qwest Communications. Utility companies have been notified of the proposed subdivision. Qwest indicated that they will provide services to these lots.

*Section 3-4-4(a)(ii)(V) requires that the existing and proposed utility easements are shown on the final plat.*

7. Bailey Lane, a County-maintained road providing access to the subdivision, does not meet County standards.
8. Bailey Lane is currently within a 50-foot-wide easement.

*The following requirements and conditions will mitigate impacts of the subdivision to local services, specifically Bailey Lane:*

- *Section 5-4-5(d) requires the applicant to pay the pro rata share of the cost to improve Bailey Lane to meet County standards prior to final plat approval.*
- *Section 3-4-4(a)(xiii) requires the applicant to submit an approach permit from the Road Department for Little Bailey Lane because there is a change in use.*
- *The subdivider shall provide for an additional five (5) feet of public road and utility easement along the Bailey Lane frontage of the subdivision. (Condition 9)*
- *The final plat shall show a non-ingress/egress zone along the Bailey Lane frontage of the subdivision, excepting the access to Little Bailey Lane. A notification of this limitation of access shall be included in the notifications document. (Conditions 1 and 8)*

- *To mitigate potential impacts of this subdivision on any possible future public water, sewer system, or improvements to the road system, the RSID/SID waiver filed with the final plat shall address these services/facilities. (Conditions 2 and 3)*
9. The subdivider is proposing to improve the existing Little Bailey Lane to meet County standards.
  10. A preliminary road maintenance agreement was included in the application packet. It includes a provision for the annual application of a dust palliative.

*To ensure that future lot owners have adequate access and to mitigate impacts on local services, the following requirements and conditions shall be met:*

- *A copy of the General Discharge Permit for Stormwater Associated with Construction Activity from DEQ (if required), final road plans and grading and storm water drainage plans, a road certification, and a signed/notarized road maintenance agreement, and evidence that road improvements have been made in accordance with the conditions of approval and requirements of final plat approval are required by Section 3-4-4(a) of the RCSR prior to final plat approval.*
  - *The easement for the internal subdivision road shall be labeled as a public road and utility easement on the final plat. (Condition 10)*
  - *A notification of the road maintenance agreement shall be included in the notifications document filed with the final plat. (Condition 1)*
  - *The Road Maintenance Agreement filed with the final plat shall allow for other properties that have beneficial use of the internal subdivision road to be included as parties to this agreement without the consent of the property owners within the Mountain View Orchards Block 5, Lot 22A, AP. (Condition 11)*
11. Bitterroot Disposal provides service to this site.

#### Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts of the subdivision on local services will be reduced.

#### CRITERION 4: EFFECTS ON NATURAL ENVIRONMENT

##### Findings of Fact:

1. The property is currently being used as cow pasture and is covered with grasses.
2. According to the Ravalli County Noxious Weed Evaluation Form approved by the Weed District, Category 1 weeds, including Common Tansy, Houndstongue, Spotted Knapweed, and Hoary Alyssum, are present on the property. An approved noxious weed and vegetation control plan is required to be filed with the final plat for each phase. According to MCA 7-22-2152, any person proposing a development that needs state or local approval and that results in the potential for noxious weed infestation within a weed district shall notify the weed board at least 15 days prior to activity. Consequently, 15 days prior to activities requiring a revegetation plan, such as road construction, the plan shall be submitted to the weed board for approval by the board.

*To mitigate impacts on the natural environment, a noxious weed control provision shall be included in the protective covenants filed with the final plat for this subdivision. (Condition 2)*

3. In an email dated January 10, 2007, the Montana Department of Environmental Quality (DEQ) identified the Hamilton and Missoula areas as communities with a high probability of failing to meet the recently revised National Ambient Air Quality Standards for particulate matter. Sources of particulate from this subdivision could be vehicles and wood-burning stoves.. The applicant is proposing to construct Little Bailey Lane to meet County standards, which includes hard-surfacing.

4. The addition of homes in an area that currently has lower density development has the potential to create light pollution. Sky glow, glare, light trespass into neighbor's homes, and energy waste are some of the components of light pollution.

*To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*

5. Individual wells and wastewater treatment systems are proposed to serve lots within the subdivision.
6. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur. (Application)

*A Certificate of Subdivision Plat Approval from Montana Department of Environmental Quality (DEQ) is required to be submitted with the final plat per Section 3-4-4 of the RCSR.*

Conclusion of Law:

Impacts from this subdivision on the natural environment will be reduced with the mitigating conditions and requirements of final plat approval.

**CRITERION 5: EFFECTS ON WILDLIFE & WILDLIFE HABITAT**

**Findings of Fact:**

The property is approximately 5 miles northeast of Corvallis and is adjacent to parcels ranging from 5.5 acres to over 150 acres.

A letter from Montana Fish, Wildlife, and Parks (FWP) recommends that Living with Wildlife provisions be included with the covenants for this subdivision. (Exhibit A-1)

The property is not located within big-game winter range, as identified by Montana Fish, Wildlife, and Parks.

*To mitigate impacts on wildlife, the following conditions shall be met:*



- *The covenants shall include living with wildlife provisions. (Condition 2)*
- *The protective covenants shall include a provision recommending full cut-off lighting on new construction. (Condition 2)*

According to the Montana Natural Heritage Program, the Bobolink and Townsend's Big-Eared Bat, identified as species of concern, are located in the same section as the proposal. Due to lack of suitable habitat for these species on the subject property, the subdivider requested and received a waiver from the requirement to submit a sensitive species report. *(Application)*

#### Conclusion of Law:

With the mitigating conditions of approval and requirements of final plat approval, impacts on Wildlife & Wildlife Habitat will be reduced.

#### CRITERION 6: EFFECTS ON PUBLIC HEALTH & SAFETY

##### Findings of Fact:

1. Access is proposed off Little Bailey Lane and Bailey Lane.

*To mitigate impacts on traffic safety, the following conditions and requirements shall be met:*

- *Section 5-4-5(d) requires the applicant to pay the pro rata share of the cost to improve Bailey Lane to meet County standards prior to final plat approval.*
- *Section 3-4-4(a)(xiii) requires the applicant to submit an approach permit from the Road Department for Little Bailey Lane because there is a change in use.*
- *The final plat shall show a non-ingress/egress zone along the Bailey Lane frontage of the subdivision, excepting the access to Little Bailey Lane. A notification of this limitation of access shall be included in the notifications document. (Conditions 1 and 8)*
- *A copy of the General Discharge Permit for Stormwater Associated with Construction Activity from DEQ (if required), final road plans and grading and storm water drainage plans for Little Bailey Lane, a road certification for Little Bailey Lane, and a signed/notarized road maintenance agreement for Little Bailey Lane, and evidence that road improvements have been made in accordance with the conditions of approval and requirements of final plat approval are required by Section 3-4-4(a) of the RCSR prior to final plat approval.*

2. The proposed subdivision will be served by the Corvallis Rural Fire District, the Ravalli County Sheriff's Office, and Marcus Daly Memorial Hospital EMS Department. *(See Effects on Local Services)*

*To mitigate impacts on emergency providers, the following conditions shall be met:*

- *Provisions in the covenants requiring that addresses are posted as soon as construction begins and that all driveways over 150 feet meet the standards of the Fire District. (Condition 2)*
  - *The subdivider shall provide evidence with the final plat submittal that they have applied for County-issued addresses for each lot within this subdivision. (Condition 4)*
  - *Provide adequate water supply or a \$500 per lot contribution to the Corvallis Rural Fire District, as approved by the Fire District. (Condition 5)*
  - *The subdivider shall submit a (amount)-per-lot contribution to the Ravalli County Treasurer's Office to be deposited into account for the Sheriff's Office prior to final plat approval. (Condition 7)*
3. The applicants are proposing individual wells and wastewater facilities. The applicants submitted water and sanitation information per MCA 76-3-622. The Ravalli County Environmental Health Department provided documentation indicating that they have received adequate information for local subdivision review to occur (*Application*).

*Section 3-4-4(a)(ix) requires a DEQ Certificate of Subdivision Approval prior to final approval.*

4. To mitigate the impacts of light pollution stemming from new construction, the protective covenants shall include a provision recommending full cut-off lighting on new construction. (*Condition 2*)
5. According to a document titled *Radon and You, Promoting Public Awareness of Radon in Montana's Air and Ground Water* published by DEQ and the Montana Bureau of Mines and Geology, there is a high potential for radon in Ravalli County.

*To mitigate impacts on public health & safety, the covenants shall include a statement regarding radon exposure. (Condition 2)*

#### Conclusion of Law:

The mitigating conditions and requirements of final plat approval will address impacts on Public Health & Safety.

Public comment was called for.

Leonard Shepherd stated the only clarification he would like to make is that the improvements are for the one lot with a \$250.00 contribution to the Sheriff's Office. Other than that, they concur with the staff report.

Board deliberations then took place.

Commissioner Rokosch stated he is confused about the road access. One diagram shows the north edge with an access. Leonard stated that was modified. The road was originally to the north side and now is off of Little Bailey Lane.

Commissioner Thompson visited with Randy in regards to #10 effects; local services for dust palliative. He stated this needs to be corrected to paving according to county standard. Leonard stated that is correct.

Commissioner Thompson asked Leonard about the contribution of \$250.00 to the Sheriff's Office. Leonard stated there is only one lot being created thus the \$250.00. Commissioner Thompson asked about the school and fire contribution. Leonard stated they will also contribute \$500.00 to the fire department for the one new lot. In regard to the school, he has had discussions with the school and they have yet to come to a final amount.

Commissioner Chilcott visited with School Superintendent Ernie Jean about the budget spread sheet in regard to ANB monies, tax levy and capital costs. In his opinion he feels the tax levy of \$1,800 per student is a reasonable mitigation, not the \$5,800 which includes the state ANB monies. This \$1,800 would be the local tax payer monies that are required. He understands the ANB money runs one year behind.

Commissioner Rokosch asked Leonard if he received a copy of this report. Leonard asked if they are to mitigate or negate the conditions. He stated it sounds to him the Commissioners want the developer to negate the impacts. He has been a school teacher in the Hamilton School District. He has 5 children who attended public school. The estimations for his children's schooling are approximately \$300,000. He stated he did not pay near that amount in taxes. He also noted it was the same for Commissioner Driscoll, as she has a special needs child which cost the tax payers more money than what she actually paid for. Leonard asked at what point of the dissection we stop. He agreed education is expensive, but that is the system that has evolved. The reason this nation leads the world is because of our education system. In regard to subdivision, does the philosophy of negation carry over that? Commissioner Driscoll stated she has a correction to make in Leonard's statement. Her insurance paid for her special needs child. Leonard stated it took many resources to handle her child or any other special needs child.

Commissioner Rokosch stated they can only address column 4 which is \$1,638.00 for Corvallis School District. In his opinion the impact to the district includes the state funds which are absent the first year. Commissioner Rokosch felt Leonard brought up some good points and while these figures can not be adjusted but as a policy he would be willing to determine the amount and subtract what is currently being paid which will be different from each subject property. Thus there should be credit for that. Leonard replied if the developer is expected to pay that difference the Commissioners are requiring negation, not mitigation. If that is the Commissioners policy that is fine, but the developer needs to know that before they come before the Board. He reiterated the developer needs to know what the Commissioners want, not what they are thinking.

Commissioner Rokosch stated they are working as hard as they can to address that, but it has not been addressed in the past and he is trying to correct it. Leonard asked how does he know it has not been addressed. Commissioner Rokosch replied because of these figures.

Commissioner Driscoll stated one cost they have not figured in are those special needs children who are a significant burden. She stated the parents can not take that burden on. Leonard stated in the spirit of equal protection, if you build a house and you require negation, then when you increase enrollment you have to have some negation.

Commissioner Chilcott stated demographically in the county, we are seeing the 'empty nest' and they are not increasing the costs to education. But they must contribute to a child's education within the school district. The formula could be so difficult no one could understand it, but we must keep it simple enough to understand.

Commissioner Rokosch stated when he was a Lone Rock School Board Member, the census speakers negotiated at 1.5 (children) between 1996 and 2000. Now we are at .5 (children) so that aspect has been incorporated in the census figures. Commissioner Chilcott stated we must find a base line as there are quite a bit of variables. Commissioner Driscoll stated some families move to Corvallis because of the special needs program the school has to offer.

Commissioner Chilcott asked what was on the table. Leonard stated \$1,000 for the new lot (school contribution).

Marlin Powell stated the covenant on this lot reads they can not impact the school for five years, so the school gets the contribution before any child lives there. Leonard also asked if they need to address the fact that is not prime farm land. Commissioner Rokosch indicated the staff report recognizes the importance of farm land. He asked Leonard if there was any consideration of that and also noted yesterday the county received a contribution to the Open Lands Board. Leonard stated Ravalli County is a 'non player' in the agriculture output. He stated the Commissioners need to define parameters in a rational manner, as again the developer does not know what you are thinking. Leonard further stated from the studies he has seen, removing these 5 acres has no negative impact or a very small impact and it could still be farmed.

Commissioner Rokosch stated we are moving towards the fiscal impact of these things, but right now we are in a transition.

**Commissioner Chilcott made a motion the Mountain View Orchards Block 5, Lots 22A, AP Minor Subdivision be approved, based on the findings of fact and conclusions of law in the staff report and subject to the conditions in the staff report and amended here today with the following contributions: \$500.00 to the Corvallis Fire District, \$1,000 to the Corvallis School District and \$250.00 to the Sheriff's Office for the creation of one new lot. Commissioner Driscoll seconded the motion.**

Commissioner Rokosch requested a point of order. Have they reviewed the six criteria? Leonard stated 'this is where he tries to read the Commissioners face and see if the impact of Ag is warranted'. In his opinion, the 5 acres can still be farmed so mitigation is not warranted and it is non prime soils.

Marlin stated the road is off site and on adjacent property. There is already an existing house, thus he is only creating one house. He concurs with Leonard's statement.

Commissioner Rokosch asked for reiteration: Leonard replied per one lot. \$1,000 to Corvallis School District, \$500.00 to Corvallis Fire District, and \$250.00 to the Sheriff's Office. Commissioner Rokosch asked there would be a contribution to the Sheriff's Office for the other house. Leonard replied no, \$250.00 for the one house being created.

Commissioner Thompson stated his 3.5 acres has more agricultural production now than when it was a larger parcel. Commissioner Thompson then stated 'call for the question'. All "aye" to move forward on the motion on the floor. **In regards to motion all voted "aye"**. The meeting was adjourned.

The remainder of the day was spent on office management